

B-07-1143-MJ

## ATTACHMENT A

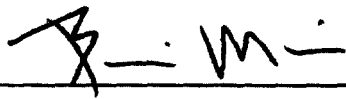
The facts establishing the foregoing issuance of an arrest warrant are based on the following:

I, Special Agent Bennie Mims, affiant, do hereby depose and state the following:

1. I am a Special Agent of the United States Department of the Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives. I have been a law enforcement officer for six years.
2. My duties include the investigation of violations of the federal firearm laws. I know it to be unlawful for any person who has been convicted of a felony to receive or possess a firearm, which has traveled in interstate or foreign commerce.
3. On November 6, 2007 the Harlingen Police Department received an anonymous tip concerning a suspicious vehicle, possibly involved in a drug transaction near [REDACTED] and [REDACTED] in Harlingen, Texas. The vehicle was described as a silver, Chrysler 300. The information was forwarded to patrol officers, in the area. Harlingen Police Officer Gustavo Martinez observed a silver Chrysler 300 matching the description, traveling east bound on [REDACTED] and [REDACTED]. Martinez observed the silver Chrysler 300 fail to yield at a stop sign. The vehicle was identified as a 2006 Silver, Chrysler 300, [REDACTED]. Martinez observed three passengers inside the vehicle, and followed the vehicle until other officers responded to the area for his assistance. Harlingen Police Officer's performed a vehicle stop at [REDACTED] and [REDACTED] in Harlingen, Texas. The driver of the vehicle who was later identified as Miguel Diaz, and front passenger, later identified as Anthony Carmona, exited the vehicle. Carmona fled from the scene on foot. Diaz was detained by Harlingen Police, along with the rear passenger later identified as Pablo Perez.
4. Diaz was asked by officer's if he would give consent to search his vehicle. Consent to search the vehicle was denied by Diaz. Harlingen Police K-9 Officer M. Loya and his dog "Mike" responded to the location and began to search the vehicle's exterior. "Mike" alerted to the driver side door. Harlingen Police Officer's proceeded to search the vehicle. In the trunk area of the Chrysler 300, officer's located a black and silver .40 caliber handgun concealed in a blue zipper bag. The bag also contained a fully loaded magazine with eight rounds, 24 loose rounds of .40 caliber Smith and Wesson ammunition, and several purple surgical gloves. The handgun was later identified as a Smith and Wesson, [REDACTED] .40 caliber, with an obliterated serial number, and with grey duck tape around the handle. The Smith and Wesson .40 caliber handgun's serial number is stamped on a silver piece of metal located in front of the trigger guard on the receiver. This is the location in which the serial number was tampered with, making the serial number unreadable.
5. Harlingen Police report [REDACTED] shows that Diaz is the registered owner of the 2006 Silver Chrysler 300. When Officer's located the handgun in the trunk of Diaz's vehicle, Harlingen Detective Jose Luis Garcia asked Diaz about the gun. Diaz stated it was for his protection. Diaz was also asked by Detective Jose F. Garcia, about the serial number being obliterated on the gun, Diaz stated "It was like that when I bought it".


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6. Criminal history checks reveal that Miguel DIAZ Jr. has an extensive criminal history. The query revealed that DIAZ has the following felony convictions:
- Arrested: 11/20/1993, Violation: Burglary of a Building, 107<sup>th</sup> District Court –Cameron County Texas, Cause Number: 94CR27A, Disposition: Pled guilty and sentenced to 10 years confinement.
  - Arrested: 07/25/1994, Violation: Burglary of a Vehicle, 107<sup>th</sup> District Court –Cameron County Texas, Cause Number: 94CR1469A, Disposition: Pled guilty and sentenced to 5 years confinement.
  - Arrested: 03/02/2006, Violation: Forgery of a Government/National Government Instrument Money/Security – a State Jail Felony, 396<sup>th</sup> District Court – Tarrant County Texas, Cause Number: 1068040001.
7. On November 7, 2007, your affiant spoke with ATF Special Agent Marian Kupczynski. SA Kupczynski stated that regarding the described firearm, it was manufactured outside of the State of Texas and therefore, previously traveled in interstate or foreign commerce at sometime prior to being possessed by any person in the State of Texas. Additionally, SA Kupczynski has attended the ATF Advanced Firearm Investigative Techniques School, which is a two week course intended to qualify him as a court recognized expert in the interstate and foreign commerce travel of firearms and ammunition. Since completing that course, SA Kupczynski has been recognized and has testified on several occasions as an expert witness regarding the interstate and foreign commerce travel of firearms and ammunition.

  
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Bennie Mims  
Special Agent, ATF

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE

  
\_\_\_\_\_  
United States Magistrate Judge

  
\_\_\_\_\_  
DATE